THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.35265 of 1997

Dated:14.03.2007

Between
General Manager (Personnel)
The Singareni Collieries Co Limited
Kothagudem, Khammam District
.....Petitioner

and

1. The Chairman, Industrial Tribunal
(Central), Hyderabad-II, Hyderabad
and another.
…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.35265 of 1997

ORDER:

This writ petition is directed against an award made in I.D.No.208 of 1994 dated 13.3.1997on the file of the Industrial Tribunal-II, Hyderabad.

The petitioner is the management of the Singareni Collieries Company Limited, Kothagudem. The 2nd respondent is the S.C. Workers' Union represented by its Vice President. It appears that the Union raised a dispute before the Conciliation Officer who in turn referred the matter to the Government for considering the same for being referred to the Industrial Tribunal (Central). After considering the dispute the Central Government under Section 10 (1) (d) of the Industrial Disputes Act, 1947 referred the matter to the Industrial

Tribunal, Hyderabad for adjudication of the following issue.

> *"Whether the action of the Management in denial to promote Sri A.Narasaiah & 13 other General Mazdoors, Cat-I to the post of Shaft Sinking Mazdoors, Cat-IV w.e.f 1.1.1990 and to place them in Cat-V, w.e.f. 1.4.1990 in violation of Cadre Scheme recommended by Central Wage Board for Coal Industry, is legal and justified? If not, to what relief the workmen are entitled to?*

According to the claim petition filed by the Union the cases of 19 workers for promotion as Shaft Sinking Mazdoor on payment of appropriate category wages was pending for a long time. Out of 19 workmen, 5 have opted to work as General Mazdoor in Shantikhani, Bellampalli area and the remaining 14 workmen have been transferred from MVK 3 in Bellampalli area to RK IA Incline in Ramakrishnapur Area from 1.2.1992. The cases of remaining 14 workmen have been pending since October, 1991 since the shaft sinking work was over in MVK 3 Incline, hence,

transferred to RK IA Incline in Ramakrishnapur Area. During March, 1990, these workmen were appointed as General Mazdoors Cat-I wages *w.e.f.* 30.9.1989 and they were advised to work in air shaft in MVK 3 Incline till further instructions *vide* letter dated 27.3.1990 from the Superintendent of Mines MVK 3 Incline and they carried on work continuously in the Shaft Sinking Section only. They have been doing all the jobs of Shaft Sinking since 1988 continuously against the permanent requirement, although they were treated as Badli Fillers. Therefore, these workmen are entitled for promotion as Shaft Sinking Mazdoor Cat-IV w.e.f. 1.1.1990 and after completion of 3 months in Category IV ie., w.e.f. 1.4.1990 they should get category V as per the recommendations of the Central Wage Board for coal Industry, 1967.

A detailed counter has been filed by the respondents denying the allegations made by the petitioner-union. It is asserted that the

promotion of the workmen to the higher category depends on various factors like existence of a clear vacancy, qualifications, experience and suitability of the workmen to the post etc., Therefore, the petitioner cannot claim promotion as a matter of right. Normally, the Tribunals do not interfere with the promotion policy of the Management unless the petitioner established that there is a deviation of any rule or violation of any settlement. As such, the reference made by the Government of India in this matter is bad in law. The workmen under dispute were initially appointed as Badlis and thereafter they were absorbed as General Mazdoors in Category-I to carryout the works such as lifting material transportation and issue tools etc., The General Mazdoors are only performing the duties of unskilled nature and hence they were being paid Category-I wages. The workmen therefore are not entitled to be placed in Category-IV directly from Category-I. The

dispute was closed before the Conciliation Officer and A.L.C Mancherial as it was decided to settle the dispute as and when vacancies arise. It is denied that all the 14 mazdoors are performing the duties of Shaft Sinking Mazdoors since 1988 continuously. The workmen in dispute were engaged to work as Geneal Mazdoors and the nature of job entrusted to the said workmen was of unskilled work for which they are paid Category-I wages. However, whenever the workmen in dispute were engaged as Shaft Sinking Mazdoors in exigencies of work ie., when the permanent workmen remain absent on leave etc., they were paid acting allowances in Category-IV. There is no requirement of Shaft Sinking Mazdoor as alleged by the Union. The manpower is deployed as per the Manpower study conducted by the Industrial Engineering Department. In any event mere posting the workmen under dispute at shaft sinking does not automatically confer any right to be

promoted as Shaft Sinking Mazdoors on Category-IV wages ignoring the seniority, suitability of the workmen besides availability of vacancies.

On behalf of the petitioner-union WWs.1 to 3 were examined and Exs.W1 to 12 were marked. On behalf of the respondent-Management MWs1 to 3 were examined and Exs.M1 to M6 were marked.

After consideration of the entire evidence on record, the Labour Court came to the conclusion that the petitioners were appointed in the year 1990 and however they could not have claimed for promotion to the Category-IV even after they have been working in that category w.e.f 1.1.1990. However, in the evidence, MW1 has agreed that the promotion to the post of Category IV can be given to a person who worked for more than 3 years as a General Mazdoor. The labour Court basing on the evidence came to the conclusion that the petitioners have worked for more than 3 years

as General Mazadoor and in the capacity of Shaft Sinking and therefore, they are entitled for promotion to the category-IV w.e.f 1.7.1993 and not 1.1.1990 as claimed by the workmen and in view of Ex.M4 settlement under Section 14 of the Industrial Disputes Act, wherein it was stated that Shaft Sinking Mazdoors in Category-IV employed in Shaft Sinking will be placed in category-V on completion of 5 years in Category-IV from 1.1.1991.

Learned counsel for the petitioner-Management strenuously contended that the Central Wage Board has no application to the workers working in the Singareni Collieries, and except this, no other legal point is argued.

Here, it is not the question of whether the recommendations are applicable or not. It has to be seen whether the categories I to VI are available in the Singareni Collieries.

There is no dispute that the category I to VI are available in the Singareni Collieries where the petitioners are working. It is also not

in dispute that the petitioners are working in the Shaft Sinking Department as a General Mazdoor category-I since 1990. It is also not in dispute that the persons who have put in 3 years of service as General Mazdoor are entitled for being promoted to Shaft Sinking Mazdoor to Category-IV. It is also not in dispute that in view of Ex.M4 a person working in category-IV is entitled for automatic promotion to category V. The labour Court on the basis of evidence on record has rightly appreciated the case of the workmen and therefore held that the workmen are entitled for promotion from category-IV Mazdoors from 1.7.1993 and category-V from 1.7.1998 in view of settlement under Section 12 (3) of the Industrial Disputes Act, 1947 as per Ex.M4 dated 29.1.1981.

I am of the opinion that the Labour Court has not committed any error calling for interference of this court under Article 226 of the Constitution of India. Writ petition is devoid

of merits and is liable to be dismissed.

Writ petition is accordingly dismissed.

No costs.

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14-03-2007

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